

WILLIAMSBURG BOARD OF ZONING APPEALS MINUTES

November 4, 2003

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, November 4 at 3:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

ATTENDANCE

Present were Board members Carr, Kafes, Chohany, and White. Absent was Board member Knudson. Also present were Zoning Administrator Murphy, and Secretary Scott.

CALL TO ORDER AND MINUTES

Chairman Carr called the meeting to order.

Mr. Kafes moved that the minutes of the September 2, 2003 meeting be approved as corrected. The motion was seconded by Mr. Chohany and carried viva voce.

PUBLIC HEARINGS

BZA #03-17: Request of Susie K. Sheldon for a variance from Section 21-142 of the Zoning Ordinance for an existing bay window 13.80 feet in width to be located into the 25 foot rear yard setback. The dwelling was constructed in 1989 and the bay window is located 22.94 feet from the rear yard setback instead of 25 feet. The property is located at 10 Whitby Court, Williamsburg Tax Map Number 553-(01)-00-040 and is zoned Single Family Residential District RS-1. Approved.

Chairman Carr introduced the request and asked the Board for comments.

Mr. Kafes noted that the lot is oddly shaped, and with Walsingham Academy on the adjacent property, crowding would not be an issue.

When asked how this setback problem was overlooked, Mrs. Murphy responded that the required foundation survey does not require that the bay window be shown, so the encroachment was not noticed.

Chairman Carr opened the public hearing.

Susan Reinhart, stated that she and her husband are in the process of purchasing the property on Whitby Court from Mrs. Sheldon, with closing scheduled for tomorrow. It was when the Reinharts had a survey done as part of the sale that the encroachment was discovered.

There being no other comment, the public hearing was closed.

Mr. Kafes moved for approval of the variance due to the unique facts of the case; the odd shape lot, the fact that the house backs up to Walsingham Academy rather than a residence, and that it is one of the smaller variances having been requested from the Board. In addition, the Zoning Ordinance allows the Board to consider "exceptional narrowness, shallowness, or shape of a specific piece of property... or ... exceptional topographic conditions or other extraordinary or exceptional situation or conditions..." Mr. Kafes' motion was also based on fulfillment of Section 21-97(b)2. "No such variance shall be authorized by the board unless it finds:

- a. That the strict application of this chapter would produce undue hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance."

Mr. Chohany seconded the motion which carried by roll call vote of 4-0.

Recorded vote on the motion:

Aye: Kafes, Carr, White, Chohany
No: None
Abstain: None
Absent: Knudson

The Board requested that in future cases, staff add "Existing" or "Proposed" columns to the history of the property section of the case memorandum.

OLD BUSINESS

Supreme Court Case

Ms. White distributed copies of a Supreme Court case, October 31, 2003, that she felt would be helpful for this Board in their deliberations. She noted that decisions should not be arbitrary, capricious, or unreasonable.

Bylaw Amendment

Mrs. Murphy noted that City Attorney Joe Phillips is reviewing the Board's desire to consider the amendment of the Bylaws to add that no application will propose "options" for the Board to review.

Lawsuit

Mrs. Murphy noted that she has not yet received a date for the pending lawsuit and will notify the Board of the second case.

NEW BUSINESS -- None

There being no further business the meeting adjourned at 3:16.

Respectfully submitted,

William H. Carr, Chairman
Board of Zoning Appeals